

HUMAN SERVICES BOARD

INTRODUCTION

FINDINGS OF FACT

3. On September 18, 2000 the petitioner and her daughters moved into an apartment. Shortly after moving in the petitioner was approved for a Section 8 housing subsidy.

The petitioner is current in her rent but she owes her landlord \$900 for a security deposit.

4. The petitioner applied to the Department on September 20, 2000 for GA to pay the security deposit. However, as of the date of the hearing in this matter, October 25, 2000, the petitioner had had no discussion with the landlord over her nonpayment of the security deposit, and was not facing any eviction.

ORDER

The Department's decision is affirmed.

REASONS

Under the GA regulations (W.A.M. § 2600) the income of all household members must be considered in determining the eligibility for assistance of any single household member. Those regulations further provide that in order to qualify for assistance an individual in the petitioner's circumstances (i.e., one whose household has received income in the last thirty days equal to or greater than the ANFC payment standard) must be facing a "catastrophic situation", which is defined in the regulations (W.A.M. § 2602) as follows:

Any applicant who has an emergency need attributable to one of the following catastrophic situations may have that need met within General Assistance benefit standards. Payment maximums as specified in sections 2611 through 2626 apply to these needs. Eligibility criteria are as follows:

- The income test at 2600 C.1 is not applicable.
- All available income and resources must be exhausted. The resource exclusion at 2600 C. 5. B. does not apply if an individual qualifies only under catastrophic rules.
- Alternatives must be explored (for example, private and community resources, family, credit).

Subsequent applications must be evaluated in relation to the individual applicant's potential for having resolved the need within the time which has elapsed since the catastrophe to determine whether the need is now caused by the catastrophe or is a result of failure on the part of the applicant to explore potential resolution of the problem.

- a. Death of a spouse or minor dependent child; or
- b. A court-ordered or constructive eviction due to circumstances over which the applicant had no control. An eviction resulting from intentional, serious property damage caused by the applicant, other household members or their guests; repeated instances of raucous and illegal behavior which seriously infringed on the rights of the landlord or other tenants of the landlord; or intentional and serious violation of a tenant agreement is not considered a catastrophic situation. Violation of a tenant agreement is not considered a catastrophic situation. Violation of a tenant agreement shall not include nonpayment of rent unless the tenant had sufficient financial ability to pay and the tenant did not use the income to cover other basic necessities or did not withhold the rent pursuant to efforts to correct substandard housing.

Constructive eviction is defined as any disturbance caused by a landlord or someone acting on his/her behalf, which makes the premises unfit for occupation. The motive for the disturbance, which may be inferred from the act, must have as its intent the eviction of the occupant. No intent needs to be considered when heat, utilities or water is not provided within a reasonable period of time and there is an agreement to furnish these items, but pursuit by the applicant of a legal resolution to these Vermont Health regulation offenses is expected.

- c. A natural disaster such as flood, fire or hurricane; or
- d. An emergency medical need. . .

In this case, the petitioner owes her landlord a deposit on her apartment, but the landlord has taken no action to collect it and the petitioner is not facing any eviction. Inasmuch as the petitioner's household income (\$1,637) is far in excess of the GA maximum (\$709), and considering that the petitioner does not meet any of the above circumstances necessary to find that she is facing a catastrophic situation, the Department's decision denying her application for GA must be affirmed. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 17.

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